IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 382 (M/S) of 2007

s

Mahesh Chandra S/o Sri Kali Dayayl, R/o 201 Doon Vihar, Jakhan, Dehradun. ....Petitioner

Vs

1. Civil Judge, (Senior Division), Dehradun.
2. Sri Deepak Sharma S/o Sri A.N. Sharma, R/o 25/1 Teg Bahadur Road, Dehradun.
3. Sri Bhagwan Singh S/o Sri Nathu singh R/o Village Aamwala Tarla Pargana Parvadoon, District Dehradun.
4. Sri Mahendra Gahi S/o Sri Devkinandan Ghai R/o Ballupur Chowk Chakrota Road, Dehradun.
5. Sri Virendra Kumar Singh S/o Bihari Singh R/o Village Khetarpur P.O. Nahtor, District Bijnor.
6. Sri Vinod Kumar S/o Bihari Singh R/o Village Khetapur, P.O. Nahtor, District Bijnor.
7. Smt. Sateshwari Devi W/o Late Sri Prem Lal Kukreti R/o 30A Kalidas Marg Dehradun.
8. Sri Vivekanand Barthwal S/o Sri Brahmnand Barthwal R/o 30A Kalidas Marg, Dehradun.
9. Sri S.C. Mathur S/o Sri K.D. Mathur, R/o 180 Nari Ship Mandir Marg, Dehradun
10. Sri Shobhit Mathur S/o Sri S.C. Mathur R/o 180 Nari Shilp Marge, Dehradun. .....Respondents

Sri Mohinder Singh Bisht, learned counsel for the petitioner.
Sri N.P. Sah, learned standing counsel for the respondent No.1.

Hon'ble B.S. Verma , J.

Heard Sri Mohinder Singh Bisht, learned counsel for the petitioner and Sri N.P. Sah, learned standing counsel for the respondent No.1.

The present writ petition has been filed by the petitioner to issue a writ, order or direction in the nature of mandamus commanding the respondent No.1 to decide the Misc. Case No. 42 of 2006 (Restoration Application) as well as expedite the proceedings of Suit No.76 of 2001 Mahesh Chandra Vs. Deepak Sharma pending before him within a stipulated time.

Initially the petitioner/plaintiff filed a suit along with interim injunction application, which was numbered as Original Suit No.76 of 2001. After registering the case, the respondent No. 1 issued notices to the respondents for inviting their objections. Thereafter, the respondents filed their written statement and after hearing both the parties, the respondent No.1 had granted interim injunction in favour of the petitioner/plaintiff by which the respondents were restrained from interfering in the property in question vide order dated 19-1-2002.

Aggrieved by the order dated 19-1-2002, the respondents filed an appeal before the District Judge and the District Judge after hearing both the parties allowed the appeal of the respondent and set aside the order dated 19-1-2002 and the matter was sent back to respondent No.1 for fresh disposal. After receiving the record, the respondent No.1 had informed the parties by issuing notice for appearance on 18-7-2002. The suit was dismissed by the respondent No.1 due to non-appearance of parties.

Thereafter, the petitioner/plaintiff moved an restoration application under Order 9 Rule 4 C.P.C. before the respondent No.1 on 21-4-2006 which was numbered as Misc. Case no.42 of 2006 and the same is pending for disposal. Feeling aggrieved, the petitioner/plaintiff has come up before this court.

In the interest of justice, the respondent No.1 i.e. Civil Judge (Senior Division), Dehradun is directed to decide the restoration application of the petitioner/plaintiff expeditiously as early as possible

preferably within a period of three months from the date of production of certified copy of this order.

In view of the above, the writ petition is disposed of accordingly.

All applications stands disposed of accordingly.

(B.S. Verma,J)

Dated:-7-5-2007
M.K.